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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED UNION OF ROOFERS,  
WATERPROOFERS & ALLIED WORKERS  
LOCAL UNION NO. 8 W.B.P.A. FUNDS,

Plaintiff,

-against-

PLESCIA ROOFING, INC.,

Defendant.  
-----x

**MEMORANDUM AND ORDER**

Case No. 05-CV-5416 (FB) (SMG)

*Appearances:*

*For the Plaintiff:*

JESSICA SUE ROTHBERG, ESQ.  
Law Offices of William Rothberg  
16 Court Street  
Brooklyn, NY 11241

**BLOCK, Senior District Judge:**

On August 2, 2006, this matter was referred to Magistrate Judge Gold for a report and recommendation ("R&R") concerning relief to be awarded. On June 5, 2007, the Magistrate Judge issued a R&R recommending that plaintiff be denied relief "unless plaintiff comes forward with a clear explanation of damages and relief it seeks that is supported . . . by contemporaneous documentation." R&R at 4-5. In response to the R&R, plaintiff submitted such additional documentation; based on this, the Magistrate Judge issued a Supplemental R&R on July 12, 2007, recommending that plaintiff be awarded a total of \$10,365.34, consisting of \$7,115.34 in interest on delinquent contributions, \$3,000.00 in fees and \$250.00 in costs. *See* Supplemental R&R at 7. On August 22, 2007, this Court ordered plaintiff to serve a copy of the Supplemental R&R on defendant and ordered defendant to file objections to the Supplemental R&R within ten days of service; the order

warned that failure to file timely objections “may waive the right to appeal.” Docket Entry # 13. Plaintiff subsequently filed a proof of service stating that defendant was served by mail on August 28, 2007. Neither party has filed objections to the Supplemental R&R.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the Supplemental R&R without *de novo* review. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, *see Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the Supplemental R&R without *de novo* review and directs the Clerk to enter judgment in accordance with the Supplemental R&R.

**SO ORDERED.**

/signed/

  
FREDERIC BLOCK/  
Senior United States District Judge

Brooklyn, New York  
November 30, 2007